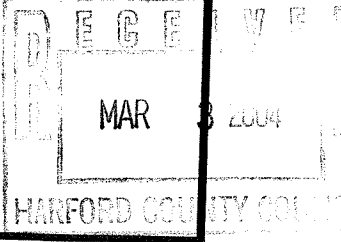


STANDARD APPLICATION

Harford County Board of Appeals

Bel Air, Maryland 21014



Case No.	5408
Date Filed	3-1-04
Hearing Date	
Receipt	
Fee	\$400 ⁰⁰

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code

CASE 5408 MAP 57 TYPE Special Exception

- ☐ Administrative Decision/Interpretation
- ☒ Special Exception
- ☐ Use Variance
- ☐ Change/Extension of Non-Conforming Use
- ☐ Minor Area Variance
- ☐ Area Variance
- ☐ Variance from Requirements of the Code
- ☐ Zoning Map/Drafting Correction

ELECTION DISTRICT 1 LOCATION Creswell Road, South of Creswell

BY Charles B. and Linda V. Whitby, 1607 Kings View Drive, Bel Air, Md. 21014

The Highlands School Foundation Inc., 2014 South Tollgate Rd., Ste. 102, Bel Air, Md. 21015

Appealed because a Special Exception pursuant to Section 267-53C(7) of the Harford County

Code to conduct a school for children with learning disabilities from grades K through 8 in an

Agricultural District requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Charles B. Whitby; Linda V. Whitby Phone Number call attorney

Address 1607 Kings View Drive Bel Air MD 21014
Street Number Street City State Zip Code

Co-Applicant The Highlands School Foundation, Inc. Phone Number call attorney

Address 2014 South Tollgate Road, Suite 102 Bel Air MD 21015
Street Number Street City State Zip Code

Contract Purchaser The Highlands School Foundation, Inc. Phone Number call attorney

Address 2014 South Tollgate Road, Suite 102 Bel Air MD 21015
Street Number Street City State Zip Code

Attorney/Representative John J. Gessner Phone Number 410-893-7500

Address 11 S. Main Street Bel Air MD 21014
Street Number Street City State Zip Code

Land Description

Address and Location of Property 41.175 Ac Creswell Road S of Creswell

Subdivision _____ Lot Number _____

Acreage/Lot Size 41.175 Election District 1 Zoning AG

Tax Map No. 57 Grid No. 2D Parcel 44 Water/Sewer: Private X Public _____

List ALL structures on property and current use: agricultural

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? N/A

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No X

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes _____ No X

Is this request within one (1) mile of any incorporated town limits? Yes _____ No X

Request

see attached

Justification

see attached

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

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205932

ATTACHMENT TO APPLICATION OF CHARLES B. WHITBY AND LINDA V.
WHITBY AND THE HIGHLANDS SCHOOL FOUNDATION, INC.

REQUEST: A special exception pursuant to Section 267-53 (C)(7) of the Harford County Zoning Code to conduct a school for children with learning disabilities on the subject property, zoned AG, Agricultural, as shown on the attached site plan.

JUSTIFICATION: The proposed school is compatible with uses permitted as of right in the AG District. The subject property is an appropriate location for the proposed school. Instruction for children from grades K through 8 will be offered. A maximum of 125 students will attend the school. There is a need for a school to serve children with learning disabilities in Harford County.

JAMES M. HARKINS
HARFORD COUNTY EXECUTIVE

JOHN J. O'NEILL, JR.
DIRECTOR OF ADMINISTRATION



J. STEVEN KALL-ZIEGLER
DIRECTOR OF PLANNING & ZONING

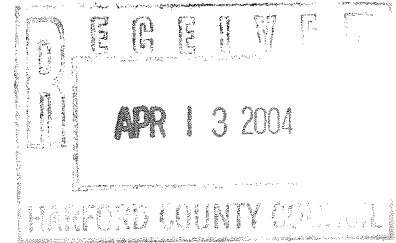
HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

April 12, 2004

STAFF REPORT

BOARD OF APPEALS CASE NO. 5408



APPLICANT: Charles B. and Linda V. Whitby
1607 Kings View Drive
Bel Air, MD 21014

CO-APPLICANT/
CONTRACT PURCHASER: The Highland School Foundation, Inc.
2014 South Tollgate Road, Suite 102
Bel Air, MD 21015

ATTORNEY: John J. Gessner, Esquire
11 South Main Street, P.O. Box 1776
Bel Air, MD 21014

LOCATION: Creswell Road, South of Creswell
East Side of Creswell Road, South of MD 136
Tax Map 57 / Grid 2D / Parcel 44
Election District: First

ACREAGE: 41.175 acres

ZONING: AG – Agricultural

DATE FILED: March 1, 2004

HEARING DATE: April 21, 2004

APPLICANT'S REQUEST and JUSTIFICATION:

See Attachment 1.

~ Preserving our values, protecting our future ~

STAFF REPORT

Board of Appeals Case Number 5408

Charles & Linda Whitby / The Highland School Foundation, Inc.

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CODE REQUIREMENTS:

The Applicant is requesting a Special Exception pursuant to Section 267-53C(7) of the Harford County Code to allow a school for children with learning disabilities in grades K through 8 in the AG District.

Section 267-53. Specific standards. The special exceptions enumerated herein, in addition to other conditions as may be imposed by the Board, shall comply with the following requirements:

C. Institutional uses.

- (7) Schools, colleges and universities. These uses may be granted in any district, except the LI and GI Districts, provided that:

- (a) Schools, colleges and universities which offer any general academic instruction at levels above the eighth grade must have:

- [1] A parcel of at least three acres. An additional eight hundred seventy-five square feet of parcel area will be required for each student in excess of fifty.
- [2] A parcel frontage of at least three hundred feet.
- [3] A front yard depth of at least fifty feet, a side yard depth equal to at least two times the height of the tallest institutional building located on the parcel which is approximate to the side lot line and a rear yard depth of at least fifty feet.

- (b) Kindergartens must have:

- [1] A parcel area of at least twenty thousand square feet per fifteen students or fraction thereof.
- [2] A parcel frontage of at least one hundred feet.
- [3] A front yard depth of at least forty feet, a side yard depth equal to at least the height of the tallest institutional building located on the parcel which is proximate to the side yard and a rear yard depth of at least forty feet.

- (c) All other educational institutions must comply with the following:

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- [1] Where the maximum attendance at any one time does not exceed forty students, such institution must have:
 - [a] A parcel area of at least twenty thousand square feet per fifteen students or fraction thereof.
 - [b] A parcel frontage of at least one hundred fifty feet.
 - [c] A front yard depth of at least forty feet, a side yard depth equal to at least the height of the tallest institutional building located on the parcel which is proximate to the side yard and a rear yard depth of at least forty feet.
- [2] Where the maximum attendance at any one time exceeds forty students, such institution must have:
 - [a] A parcel area of at least three acres, plus seven hundred square feet for each student in excess of sixty.
 - [b] A parcel frontage of at least two hundred feet.
 - [c] A front yard depth of at least fifty feet, a side yard depth equal to at least two times the height of the tallest institutional building located on the parcel which is proximate to the side yard and a rear yard depth of at least fifty feet.
- (d) School buses shall be garaged or shall be stored in an area to the rear of the main building and adequately screened.
- (e) A buffer yard ten feet wide shall be provided along the boundary with an adjacent residential lot.

Enclosed with the report is a copy of Sections 267-51 and 267-52 of the Harford County Code, which relate to Special Exceptions. (Attachment 2)

Section 267-91 entitled "Limitations, Guides, and Standards" will be discussed in detail later in the report.

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LAND USE and ZONING ANALYSIS:

Land Use - Master Plan:

The subject property is located on the east side of MD 543 north of Interstate 95. Enclosed with the report are copies of a location map, and a copy of the Applicant's site plan. (Attachments 3 and 4)

The site of this proposal is located outside the Development Envelope. The primary land use designation in this area is Agricultural/AG Residential. The site is directly north of the interchange at MD 543 and I-95. The Natural Features Map reflects stream buffer systems. The subject property is designated as Agricultural/AG Residential, which is defined by the 1996 Land Use Plan as:

Agriculture/AG Residential – Areas where agriculture is the primary land use. Where development rights are available, residential development at a density of 1.0 dwelling units for every 10 acres is possible. Commercial uses within this area are intended to serve the agriculture industry or residents in the area.

Enclosed with the report is a copy of the 1996 Land Use Map and Natural Features Map, reflecting the general area of the subject property. (Attachments 5 and 6)

Land Use - Existing:

The land uses in this area of the County are a mixture of institutional, residential, agricultural, and amusements. There are active farms in the area and large lot subdivisions. In addition, there are some older small lot subdivisions nearby. Eastern Christian College is located across MD 543 and the Bryn-Mar Tennis/Swim/Golf club is located to the south of the site. Enclosed with the report is a copy of the aerial photographs. (Attachment 7A and B)

The subject property is a proposed 18.5-acre lot. At this time, a preliminary plan is under review through the Department of Planning and Zoning to create this lot from a larger agricultural parcel. The parcel is currently being used as a horse farm. The only improvements on the site are various fences. Enclosed with the report are site photographs. (Attachments 8A-F)

Zoning:

The zoning classifications in this area are consistent with the 1996 Master Plan and 1996 Land Use Element Plan. The zonings consist of AG – Agricultural, and RR – Rural Residential to the north and west. B1 – Neighborhood Business and a small piece of B2 – Community Business is located to the north at the intersection of MD 543 and 136. Enclosed with the report is a copy of the zoning map. (Attachment 9)

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SUMMARY:

The Applicant is requesting a Special Exception pursuant to Section 267-53C(7) of the Harford County Code to allow a school for children with learning disabilities in grades K through 8 in the AG District.

Section 267-53C of the Harford County Code:

C. Institutional uses.

(7) Schools, colleges and universities. These uses may be granted in any district, except the LI and GI Districts, provided that:

(a) Schools, colleges and universities which offer any general academic instruction at levels above the eighth grade must have:

This section is not applicable to the request as the Applicant is requesting approval for grades Kindergarten through 8th grade.

(b) Kindergartens must have:

[1] A parcel area of at least twenty thousand square feet per fifteen students or fraction thereof.

The proposed lot is 18.5 acres, which is more than sufficient to meet this requirement.

[2] A parcel frontage of at least one hundred feet.

The lot will have approximately 900 feet of road frontage.

[3] A front yard depth of at least forty feet, a side yard depth equal to at least the height of the tallest institutional building located on the parcel which is proximate to the side yard and a rear yard depth of at least forty feet.

Based on the site plan, these dimensions will be met.

(c) All other educational institutions must comply with the following:

[1] Where the maximum attendance at any one time does not exceed forty students, such institution must have:

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This section does not apply as the proposed maximum number of students is 125.

[2] Where the maximum attendance at any one time exceeds forty students, such institution must have:

[a] A parcel area of at least three acres, plus seven hundred square feet for each student in excess of sixty.

The proposed lot is 18.5 acres, which is more than sufficient to meet this requirement.

[b] A parcel frontage of at least two hundred feet.

The lot will have approximately 900 feet of road frontage.

[c] A front yard depth of at least fifty feet, a side yard depth equal to at least two times the height of the tallest institutional building located on the parcel which is proximate to the side yard and a rear yard depth of at least fifty feet.

These dimensions will be met.

(d) School buses shall be garaged or shall be stored in an area to the rear of the main building and adequately screened.

Although the Applicant indicated that there would be no buses garaged or stored on the property, this site has adequate area to meet or exceed this requirement.

(e) A buffer yard ten feet wide shall be provided along the boundary with an adjacent residential lot.

A detailed landscaping plan depicting appropriate buffer plantings has been submitted. (Attachment 10)

The following is a review of 267-9I of the Harford County Code.

Section 267-9I:

(1) The number of persons living or working in the immediate area.

The subject property is located north of I-95 in a rural area of the County. This area of the County contains a mix of agricultural, residential, and institutional uses with a small commercial area to the north.

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- (2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

A preliminary traffic impact analysis has been submitted that demonstrates this proposal can be developed without adversely impacting the roads in the area. (Attachment 11)

- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the county.*

The proposed use is permitted in the AG – Agricultural District as a special exception with Board approval. The Code established guidelines to be used to approve the proposed use, and as discussed in this report, the Applicants can meet or exceed the standards.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

The proposed use should not have an adverse impact regarding the above issues.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.*

The Harford County Sheriff's Office and the Maryland State Police would provide police protection. The Local Volunteer Fire Company would provide fire protection. Water and sewer will be provided by on-site private facilities. The Applicant will be required to contract with a private hauler to dispose of trash.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The proposal is recognized by the Harford County Code as a use that is compatible, provided specific requirements are met.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

This site is near the Eastern Christian College and a number of small churches. The Applicant has submitted an architectural rendering, which demonstrates that this structure will be consistent with other structures in the area. (Attachment 12)

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- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The proposed use is consistent with the County's Master Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

This section is not applicable to the request.

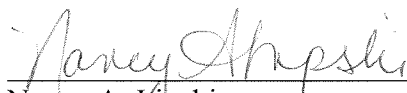
- (10) *The preservation of cultural and historic landmarks.*

This section is not applicable to the request.

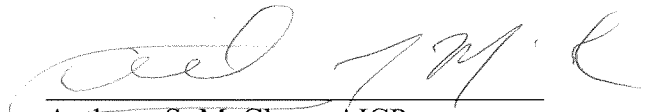
RECOMMENDATION and/or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends approval of the request, subject to the following conditions:

1. The Applicant shall submit a site plan to be reviewed and approved through the Development Advisory Committee. The site plan shall be in general conformance with the plan submitted as Attachment 4.
2. The structure shall be built in general conformance with the architectural rendering submitted with the Application.
3. The final plat creating this lot shall be recorded prior to application for any building permits.



Nancy A. Lipski
Chief, Site Plan & Permits Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

NAL/ASM/ka